

**EXHIBIT 8**

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8 Attorneys for Defendant  
9 CITY OF SAN LEANDRO

10  
11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA

13 INTERNATIONAL CHURCH OF THE  
14 FOURSQUARE GOSPEL,

15 Plaintiff,

16 v.

17 CITY OF SAN LEANDRO, a municipal  
18 corporation,

19 Defendant.

20  
21 FAITH FELLOWSHIP FOURSQUARE  
22 CHURCH,

23 Real Party in Interest.  
24  
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26  
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Case No. C07-03605-PJH

DEFENDANT'S NOTICE OF  
MANUAL FILING OF EXHIBITS 8  
AND 9 TO DEFENDANT'S MOTION  
FOR SUMMARY JUDGMENT

Hearing:

Date: October 1, 2008

Time: 9:00 a.m.

Courtroom: 3

1 Exhibits 8 (Zoning Map) and Exhibit 9 (Assembly Use Criteria Study Map), which  
2 are attachments to the City of San Leandro's Motion for Summary Judgment, are in paper  
3 form only and are being maintained in the case file in the Clerk's office.

4 If you are a participant on this case, this filing will be served in hard-copy shortly.

5 For information on retrieving this filing directly from the court, please see the court's  
6 main website at <http://www.cand.uscourts.gov> under Frequently Asked Questions (FAQ).

7 The reason for manual filing is that both exhibits are oversized color maps.  
8

9 Dated: August 27, 2008

MEYERS, NAVE, RIBACK, SILVER & WILSON

10  
11  
12 By /S/

13 DEBORAH J. FOX  
Attorneys for Defendant  
14 CITY OF SAN LEANDRO

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**PROOF OF SERVICE**

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is Meyers, Nave, Riback, Silver & Wilson, 333 South Grand Avenue, Suite 1670, Los Angeles, California 90071.

On August 27, 2008, I caused to be served the within document(s) DEFENDANT'S NOTICE OF MANUAL FILING OF EXHIBITS 8 AND 9 TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT on the parties in this action by placing a true copy thereof in a sealed envelope, each envelope addressed as follows:

Kevin T. Snider, Esq.  
Mathew B. McReynolds, Esq.  
Pacific Justice Institute  
P.O. Box 276600  
Sacramento, CA 95827

Attorneys for Plaintiff and Real Party in Interest  
  
Fax: (916) 857-6902  
Email: kevinSnider@pacificjustice.org  
mattmcReynolds@pacificjustice.org

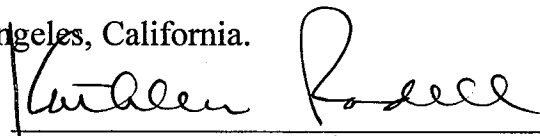
Peter MacDonald, Esq.  
Law Office of Peter MacDonald  
400 Main Street  
Suite 210  
Pleasanton, California 94566-7371

Attorneys for Plaintiff and Real Party in Interest  
  
Fax: (925) 462-0404  
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**(X) (VIA FEDERAL EXPRESS/OVERNIGHT DELIVERY)** I caused each envelope, with delivery fees provided for, to be deposited in a box regularly maintained by Federal Express. I am readily familiar with my firm's practice for collection and processing of correspondence for overnight delivery and know that in the ordinary course the document(s) described above will be deposited in a box or other facility regularly maintained by Federal Express, or delivered to an authorized courier or driver authorized by Federal Express to receive documents on the same date that it is placed at Meyers Nave Riback Silver & Wilson for collection.

**(X) (Federal)** I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on August 27, 2008, at Los Angeles, California.



Kathleen Rodell

**EXHIBIT 9**

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Attorneys for Defendant  
CITY OF SAN LEANDRO

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

INTERNATIONAL CHURCH OF THE  
FOURSQUARE GOSPEL,

Plaintiff,

v.

CITY OF SAN LEANDRO, a municipal  
corporation,

Defendant.

FAITH FELLOWSHIP FOURSQUARE  
CHURCH,

Real Party in Interest.

Case No. C07-03605-PJH

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Fax: (916) 857-6902  
Email: kevinSnider@pacificjustice.org  
mattmcreynolds@pacificjustice.org

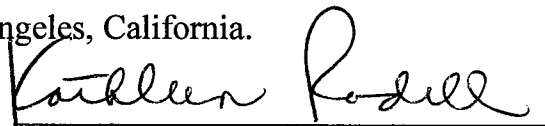
Peter MacDonald, Esq.  
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Fax: (925) 462-0404  
Email: pmacdonald@macdonaldlaw.net

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Executed on August 27, 2008, at Los Angeles, California.



Kathleen Rodell



**EXHIBIT 10**

APNGIS	ADDRESS	ZONING	Area (sq ft)	Area (acres)
075 0045 002 00	795 Williams St	IL	7809.99	0.18
075 0045 003 00	775 Williams St	IL	6123.16	0.14
075 0045 004 00	753 Williams St	IL	9759.47	0.22
075 0045 005 00	735 Williams St	IL	7547.41	0.17
075 0045 006 00	719 Williams St	IL	6868.42	0.16
075 0045 007 00	705 Williams St	IL	7969.16	0.18
075 0045 009 01	712 Castro St	IL	12873.52	0.30
075 0045 010 00	736 Castro St	IL	6299.91	0.14
075 0045 011 00	748 Castro St	IL	7141.25	0.16
075 0045 012 00	754 Castro St	IL	4925.01	0.11
075 0045 013 00	766 Castro St	IL	6250.04	0.14
075 0045 014 00	1860 Alvarado St	IL	13876.66	0.32
075 0065 001 02	839 Thornton St	IP	10673.66	0.25
075 0065 001 03	845 Thornton St	IP	5227.07	0.12
075 0065 001 04	857 Thornton St	IP	10168.29	0.23
075 0065 002 00	823 Thornton St	IP	6405.27	0.15
075 0065 003 00	815 Thornton St	IP	6406.43	0.15
075 0065 004 00	807 Thornton St	IP	7226.90	0.17
075 0065 005 00	804 Williams St	IP	6758.30	0.16
075 0065 006 00	824 Williams St	IP	6297.23	0.14
075 0065 007 02	830 Williams St	IP	5792.39	0.13
075 0065 008 00	840 Williams St	IP	6297.08	0.14
075 0065 009 02	854 Williams St	IP	6087.70	0.14
075 0065 010 00	886 Williams St	IP	6298.75	0.14
075 0065 011 00	896 Williams St	IP	7199.51	0.17
075 0066 003 00	869 Williams St	IL	3500.18	0.08
075 0066 004 00	855 Williams St	IL	4271.57	0.10
075 0066 005 00	1823 Alvarado St	IL	7949.94	0.18
075 0066 006 00	1835 Alvarado St	IL	7050.20	0.16
075 0066 007 05	1849 Alvarado St	IL	12268.89	0.28
075 0066 007 07	Castro St	IL	7500.14	0.17
075 0066 007 08	810 Castro St	IL	15835.71	0.36
075 0066 007 09	830 Castro St	IL	24327.41	0.56
075 0066 019 01	903 Williams St	IL	15188.71	0.35
075 0077 015 00	527 Harlan St	IL	10551.78	0.24
075 0078 001 07	Estabrook St	IL	37951.52	0.87
075 0078 002 00	572 Estabrook St	IL	6682.46	0.15
075 0078 003 02	596 Estabrook St	IL	10241.31	0.24
075 0078 005 03	563 Harlan St	IL	18343.13	0.42
075 0078 006 02	555 Harlan St	IL	5000.14	0.11
075 0078 007 03	549 Harlan St	IL	5766.25	0.13
075 0078 007 04	545 Harlan St	IL	5756.08	0.13
075 0084 014 05	2481 San Leandro Blvd	IP	59408.06	1.36
075 0084 015 02	2485 Washington Ave	IP	80251.64	1.84
075 0087 001 02	400 Hudson Ln	IG	53320.60	1.22
075 0087 008 00	400 Hudson Ln	IG	600254.86	13.78
075 0103 004 03	2023 Alvarado St	IL	14126.65	0.32
075 0103 005 00	2077 Alvarado St	IL	5308.53	0.12

075 0103 006 00	2091 Alvarado St	IL	5303.63	0.12
075 0103 007 00	864 Estabrook St	IL	22062.21	0.51
075 0103 008 00	870 Estabrook St	IL	14648.26	0.34
075 0103 009 00	940 Estabrook St	IL	25623.71	0.59
075 0103 010 00	2090 Orchard Ave	IL	10917.37	0.25
075 0103 011 00	2050 Orchard Ave	IL	8226.44	0.19
075 0105 001 00	795 Castro St	IL	6083.56	0.14
075 0105 002 00	783 Castro St	IL	6085.15	0.14
075 0105 003 00	771 Castro St	IL	6085.15	0.14
075 0105 004 00	763 Castro St	IL	6085.13	0.14
075 0105 005 00	755 Castro St	IL	6051.40	0.14
075 0105 006 00	743 Castro St	IL	4451.37	0.10
075 0105 007 00	727 Castro St	IL	5524.67	0.13
075 0105 008 00	703 Castro St	IL	33937.52	0.78
075 0105 009 00	2009 Martinez St	IL	22719.93	0.52
075 0105 010 01	2035 Martinez St	IL	107999.17	2.48
075 0105 022 02	2102 Alvarado St	IL	9088.05	0.21
075 0105 023 00	2098 Alvarado St	IL	8875.77	0.20
075 0105 025 01	2070 Alvarado St	IL	18176.33	0.42
075 0105 026 00	2056 Alvarado St	IL	9088.28	0.21
075 0105 027 00	2042 Alvarado St	IL	9088.14	0.21
075 0105 028 00	2028 Alvarado St	IL	9088.02	0.21
075 0105 029 00	2014 Alvarado St	IL	8875.96	0.20
075 0105 030 02	2000 Alvarado St	IL	8875.39	0.20
075 0105 031 02	1996 Alvarado St	IL	9047.36	0.21
075 0105 032 00	1982 Alvarado St	IL	9053.11	0.21
075 0105 033 00	1968 Alvarado St	IL	9059.14	0.21
075 0105 034 00	1954 Alvarado St	IL	9065.25	0.21
075 0224 001 00	250 San Leandro Blvd	IL	21229.80	0.49
075 0224 002 03	300 San Leandro Blvd	IL	28245.54	0.65
075 0224 004 02	420 San Leandro Blvd	IL	2027.84	0.05
075 0224 004 06	350 San Leandro Blvd	IL	79492.33	1.82
075 0224 004 08	299 Park St	IL	44319.60	1.02
075 0224 006 00	415 Park St	IL	62356.57	1.43
075 0224 007 00	435 San Leandro Blvd	IL	22540.51	0.52
075 0224 010 00	265 Park St	IL	8322.28	0.19
075 0224 011 00	289 Park St	IL	8156.31	0.19
075 0224 012 00	295 Park St	IL	6658.07	0.15
076 0350 003 00	Macarthur Blvd	CC	3949.68	0.09
076 0350 004 01	1029 Macarthur Blvd	CC	12073.12	0.28
076 0350 005 01	1037 Macarthur Blvd	CC	3809.35	0.09
076 0350 007 01	1041 Macarthur Blvd	CC	8594.71	0.20
076 0350 008 00	1051 Macarthur Blvd	CC	11090.47	0.25
076 0350 010 00	1079 Macarthur Blvd	CC	46984.52	1.08
076 0446 012 00	1057 Macarthur Blvd	CC	11182.75	0.26
077 0556 001 00	193 Estabrook St	CC	4591.52	0.11
077 0556 062 00	2274 Washington Ave	CC	18508.52	0.42
077 0556 063 00	2260 Washington Ave	CC	9741.74	0.22
077 0556 064 02	2242 Washington Ave	CC	13153.22	0.30

077 0556 065 01	2240 Washington Ave	CC	9665.07	0.22
077 0556 067 00	2166 Washington Ave	CC	16327.10	0.37
077 0556 068 01	Washington Ave	CC	6372.76	0.15
077 0556 069 03	2150 Washington Ave	CC	15832.61	0.36
077A 0639 002 00	904 Williams St	IP	8134.59	0.19
077A 0639 003 00	912 Williams St	IP	4336.56	0.10
077A 0639 004 00	916 Williams St	IP	4200.05	0.10
077A 0639 005 00	932 Williams St	IP	4269.01	0.10
077A 0639 006 00	940 Williams St	IP	8536.70	0.20
077A 0639 007 00	964 Williams St	IP	4267.42	0.10
077A 0639 008 00	972 Williams St	CN	5611.46	0.13
077A 0639 009 00	1776 Orchard Ave	CN	5612.08	0.13
077B 1125 004 04	14805 Washington Ave	CC	92729.43	2.13
077B 1139 002 04	14595 Washington Ave	CC	8156.78	0.19
077B 1139 002 06	14601 Washington Ave	CC	9533.56	0.22
077B 1139 006 02	250 Floresta Blvd	CC	359188.84	8.25
077B 1139 007 00	300 Floresta Blvd	CC	138597.50	3.18
077B 1139 008 00	256 Floresta Blvd	CC	24652.10	0.57
077B 1163 008 10	555 Floresta Blvd	CC	386535.55	8.87
077B 1163 011 02	555 Floresta Blvd	CC	114986.76	2.64
077B 1163 016 03	14391 Washington Ave	CC	6513.13	0.15
077B 1222 001 05	344 139th Ave	CC	33316.23	0.76
077B 1222 002 02	14111 Washington Ave	CC	16936.45	0.39
077B 1222 003 03	14143 Washington Ave	CC	22647.21	0.52
077B 1222 003 04	14127 Washington Ave	CC	50292.37	1.15
077B 1222 004 03	14173 Washington Ave	CC	10054.38	0.23
077B 1222 005 03	14193 Washington Ave	CC	15253.81	0.35
077B 1222 006 15	14251 Washington Ave	CC	9511.77	0.22
077B 1222 006 17	Washington Ave	CC	607.48	0.01
077B 1222 006 18	14231 Washington Ave	CC	58184.23	1.34
077B 1222 006 19	14205 Washington Ave	CC	35192.44	0.81
077B 1222 007 10	14349 Washington Ave	CC	7133.96	0.16
077B 1222 007 14	14315 Washington Ave	CC	24156.28	0.55
077B 1222 007 17	14305 Washington Ave	CC	36103.49	0.83
077B 1222 007 18	14281 Washington Ave	CC	33130.15	0.76
077B 1222 007 19	14327 Washington Ave	CC	20047.66	0.46
077B 1222 007 20	14335 Washington Ave	CC	15361.39	0.35
077B 1225 002 04	13951 Washington Ave	IP	369761.82	8.49
077B 1225 003 04	295 139th Ave	IP	22229.47	0.51
077B 1225 005 05	295 139th Ave	CC	32900.56	0.76
077C 1228 001 02	13940 Washington Ave	CC	15651.30	0.36
077C 1228 002 02	14000 Washington Ave	CC	42634.03	0.98
077C 1230 001 03	14074 Washington Ave	CC	42540.56	0.98
077C 1230 004 04	14160 Washington Ave	CC	62803.59	1.44
077C 1230 004 06	14110 Washington Ave	CC	53893.54	1.24
077C 1230 005 02	14200 Washington Ave	CC	109146.12	2.51
077C 1232 001 04	635 143rd Ave	IG	35535.10	0.82
077C 1232 005 02	601 143rd Ave	IG	19651.78	0.45
077C 1232 006 07	501 143rd Ave	CC	70321.15	1.61

077C 1235 001 02	640 143rd Ave	IP	115727.50	2.66
077C 1235 002 14	14320 Washington Ave	CC	17195.87	0.39
077C 1235 002 16	14336 Washington Ave	CC	10228.21	0.23
077C 1235 002 18	14330 Washington Ave	CC	9538.57	0.22
077C 1235 002 20	14332 Washington Ave	CC	9380.25	0.22
077C 1235 002 22	14340 Washington Ave	CC	141594.57	3.25
077C 1235 002 24	534 143rd Ave	IP	33750.62	0.77
077C 1235 002 28	143rd Ave	IP	3861.30	0.09
077C 1235 003 03	14388 Washington Ave	IG	272808.48	6.26
077C 1240 001 06	100 Halcyon Dr	IG	1182495.85	27.15
077C 1240 002 00	2780 Halcyon Dr	IP	43363.32	1.00
077C 1280 004 00	15285 Hesperian Blvd	CS	73708.87	1.69
077C 1280 005 01	15299 Hesperian Blvd	CN	18113.33	0.42
077C 1280 006 03	15311 Hesperian Blvd	CS	110112.76	2.53
077C 1280 007 00	Hesperian Blvd	CS	182813.13	4.20
077C 1310 001 16	Washington Ave	CC	5418.66	0.12
077C 1310 001 17	Washington Ave	CC	25829.76	0.59
077C 1310 002 06	14610 Washington Ave	CC	19492.33	0.45
077C 1310 003 01	14664 Washington Ave	CC	33931.00	0.78
077C 1310 003 04	14662 Washington Ave	CC	23152.43	0.53
077C 1310 004 04	14680 Washington Ave	CC	84571.01	1.94
077C 1310 008 04	14400 Washington Ave	CC	44218.61	1.02
077C 1310 009 01	14602 Washington Ave	CC	29817.01	0.68
077D 1410 025 00	2436 Washington Ave	P	124168.61	2.85
077D 1424 005 08	777 139th Ave	IG	58785.26	1.35
077D 1424 006 07	1111 139th Ave	IG	518912.53	11.91
077D 1437 013 04	1090 139th Ave	IG	9528.81	0.22
077D 1437 014 03	139th Ave	IG	13225.08	0.30
077D 1437 015 01	1124 139th Ave	IG	7237.34	0.17
077D 1440 001 18	760 139th Ave	IG	32516.92	0.75
077D 1440 001 21	143rd Ave	IG	9314.04	0.21
077D 1440 001 23	750 139th Ave	IG	160729.41	3.69
077D 1440 002 00	790 139th Ave	IP	72572.36	1.67
077D 1443 002 02	833 143rd Ave	IL	19336.00	0.44
080D 0559 003 04	15420 Hesperian Blvd	CC	13877.14	0.32
080D 0559 005 03	15444 Hesperian Blvd	CC	75702.43	1.74
080G 0910 016 00	2561 Grant Ave	IG	183500.60	4.21
080G 0910 017 00	2505 Grant Ave	IG	17536.42	0.40
080G 1099 001 00	1960 Lewelling Blvd	CN	133197.93	3.06
080G 1178 007 02	2505 Grant Ave	IG	497086.94	11.41
412 0006 003 00	698 Lewelling Blvd	CC	14057.64	0.32
412 0006 010 00	674 Lewelling Blvd	CC	111433.33	2.56
412 0006 011 00	Washington Ave	CC	25391.30	0.58
412 0009 005 04	552 Lewelling Blvd	CC	563.96	0.01
412 0009 005 07	Lewelling Blvd	CC	164906.86	3.79
412 0009 006 02	534 Lewelling Blvd	CC	14345.74	0.33
412 0009 006 03	534 Lewelling Blvd	CC	25398.69	0.58
412 0009 006 05	534 Lewelling Blvd	CC	27133.30	0.62
412 0011 004 00	Lewelling Blvd	CC	181902.96	4.18

412 0011 005 00	Lewelling Blvd	CC	92989.49	2.13

**EXHIBIT 11**



Attachment#3A

# MEMORANDUM

**TO:** Business Development Sub-Committee

**FROM:** Hanson Hom, Community Development Director

**BY:** Debbie Pollart, Planning Manager

**DATE:** October 12, 2006

**RE:** Agenda Item Discussion of Assembly Uses in the Industrial Limited (IL) Zoning District

On May 18, 2006, staff received an application from Faith Fellowship Church (FFC) requesting a Zoning Code amendment to conditionally permit Assembly uses in Industrial Limited (IL) zones. FFC is interested in purchasing the property at 14600 Catalina (formerly occupied by MDL). This property is zoned Industrial Professional (IP). Although not currently codified in Article 3 – Definitions of the Zoning Code, assembly uses include the following two uses that are defined: Clubs and Lodges; Religious Assembly.

Currently, the Zoning Code conditionally permits Religious Assembly uses in R districts, and Faith Fellowship's current location at 577 Manor is zoned RS (PD), Residential Single Family, Planned Development Overlay District.

In light of the application by FFC to locate in a non-residential district, staff analyzed the possibility of allowing assembly uses on appropriate non-residential sites, and expanding the land use options for such uses.

Staff notes that analyzing this matter raises larger General Plan policy issues. Staff looked at the following overriding General Plan Policies for guidance:

- ▶ "The areas most suitable for conversion to non-industrial uses are those located adjacent to existing housing, or in areas which lack the amenities to meet the needs of modern industry. Such areas exist along San Leandro Boulevard, Alvarado Street, and Marina Boulevard" (Page 3-52 of the General Plan).
- ▶ General Plan Policy 7.06 *Adaptive Reuse*; Policy 7.07 *Tax Base Enhancement*; Policy 10.04 *Industrial Sanctuary*; and Policy 33.04 *Separation from Sensitive Uses*;

Based on the above policies, the following criteria are suggested for evaluating appropriate locations for large assembly uses:

- ▶ Properties not located along major commercial corridors (E. 14<sup>th</sup> Street and Auto Mall area of Marina Boulevard) – *to preserve the commercial character of these corridors*;
- ▶ Properties not designated IG or IP – *to comply with General Policies*;



*Assembly Uses in IL District  
Business Development Sub-Committee Meeting*

2

*October 12, 2006*

- ▶ However, if property is in an Industrial District, it be located near the periphery – *to comply with General Plan policies for preservation and enhancement of the City's industrial base;*
- ▶ Minimum 2-acre area – *to accommodate large assembly uses;*
- ▶ Abuts or is within ¼ mile of an arterial street – *to ensure adequacy of the street system to accommodate the traffic from such uses;*
- ▶ Vacant/underutilized property – *that may be available in the future for assembly uses.*

After inputting these criteria, 13 potential areas were derived, with the applicable assumptions indicated for each of the areas.

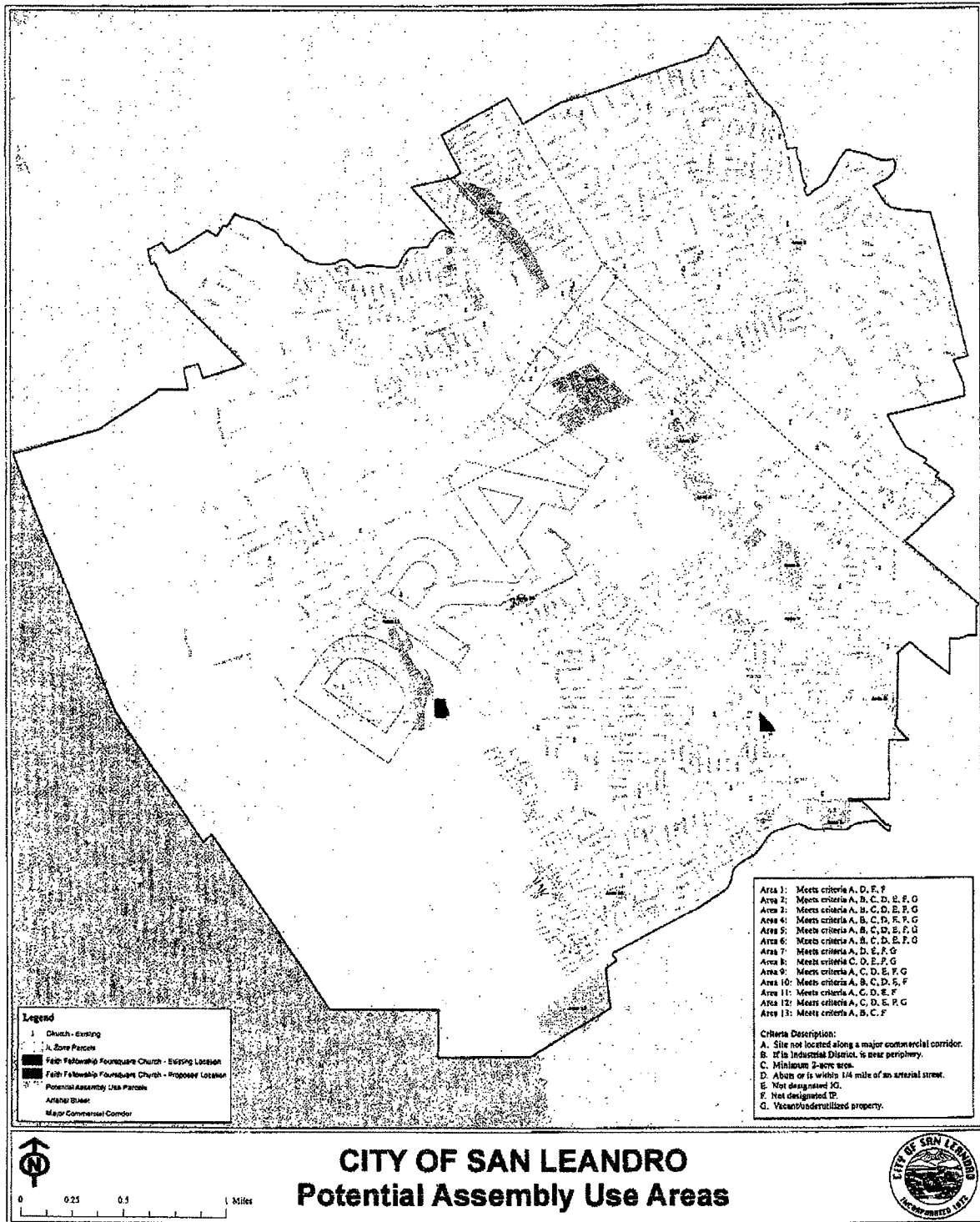
Based upon the analysis performed, staff is recommending two options for consideration by the Business Development Sub-Committee. This matter will also be discussed next week at a Joint Board of Zoning Adjustments/Planning Commission work session.

*Option 1 – Amend Zoning Code to allow Assembly uses in IL Zoning District.* Under Option 1, Assembly uses could be added as a 'conditionally permitted' use in all IL zones, with use permit review and approval under the Board of Zoning Adjustments. Alternatively, base development standards (such as have been developed for residential uses) could be developed for Assembly uses, such that applications meeting such standards could be reviewed and approved administratively by the Zoning Enforcement Official (ZEO) through a Site Plan Review application. For applications that don't meet the standards, these could be reviewed by the ZEO at a public hearing, or be referred to the Board of Zoning Adjustments. With this option, a total of approximately 94 acres currently zoned IL would be affected (this includes some areas of railroad right-of-way).

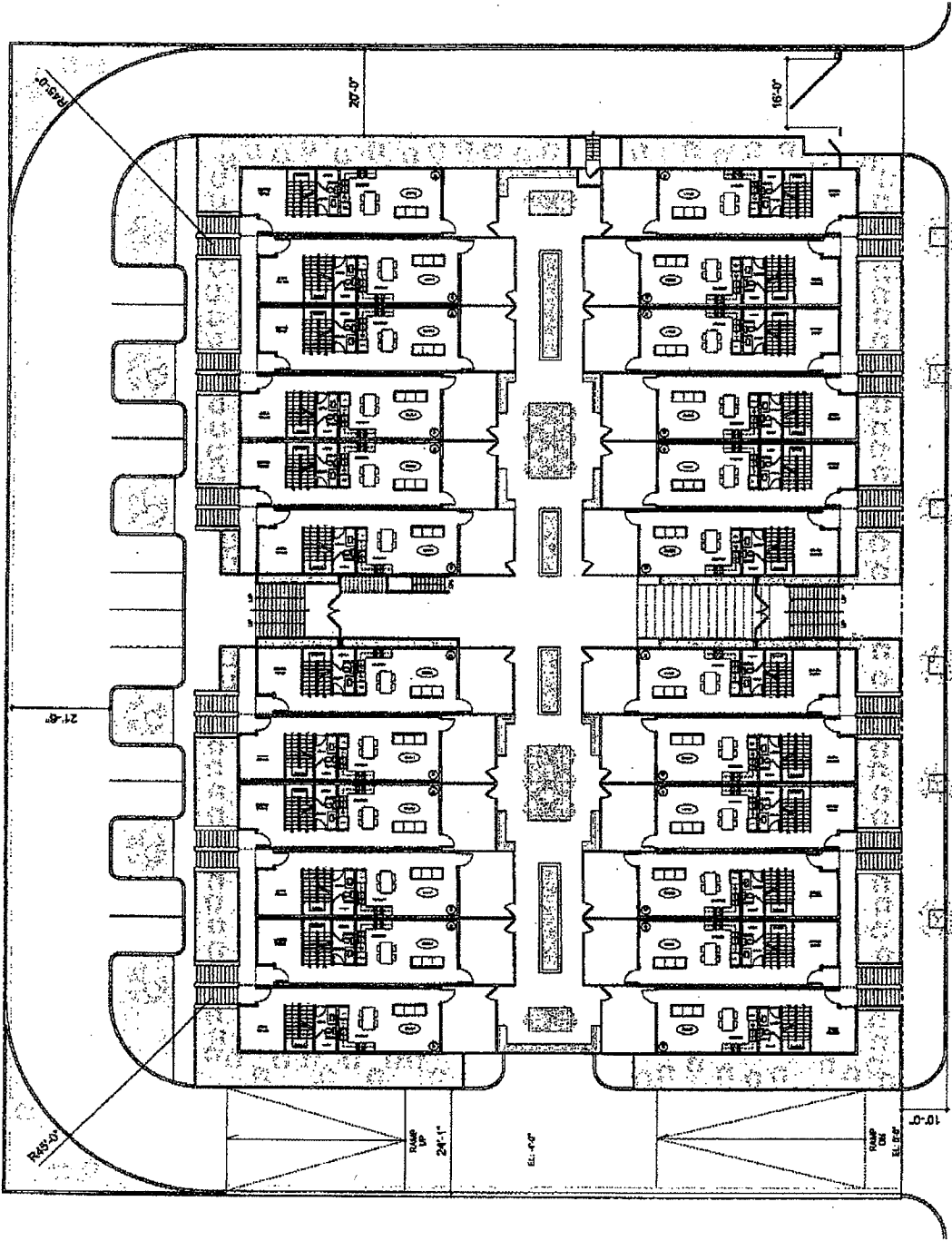
*Option 2 – Apply 'Assembly' Overlay District to Identified Areas.* Under Option 2, the green areas identified on the draft map would have an Assembly Overlay District applied to them. This would be accomplished via a Zoning Code amendment to define the Assembly Overlay District (new Article), and then rezoning all of the designated areas with the new Assembly Overlay District. Under this option, the underlying zoning designations for each of the individual properties would not change, similar to how the S and PD Overlay Districts are utilized. With this option, a total of approximately 218 acres would be affected (this includes some areas of railroad right-of-way).

Staff notes that under either option, Religious Assembly uses would continue to remain conditionally permitted in R Districts.

Finally, when staff brings the matter back through the public hearing process, a definition for Assembly uses will be recommended as part of the proposed Zoning Code amendments. A codified definition would preclude future confusion that may occur for assessing Clubs and Lodges and Religious Assembly uses.



Attachment #4



MAIN LEVEL

1/16" = 1'-0"



AERIAL VIEW TOWNHOUSE DEVELOPMENT  
15101 Washington Avenue  
San Leandro CA

metropolitan architecture  
580 Second Street #205  
Oakland, CA  
PH: 510.271.8510 / F: 510.271.8589  
www.metc.com / met@metc.com

**EXHIBIT 12**

**CITY OF SAN LEANDRO  
CITY COUNCIL BUSINESS DEVELOPMENT COMMITTEE**

October 12, 2006  
4:00 p.m. – 5:30 p.m.

San Leandro City Hall  
835 East 14<sup>th</sup> Street  
San Leandro, California  
Sister Cities Gallery Room

**HIGHLIGHTS**

Committee Members: Mayor Young, Councilmember Badger, Councilmember Stephens  
(Chair)

City staff present: John Jermanis, Steve Hollister, Hanson Hom, Tom Liao, Debbie Pollart,  
Luke Sims, Stephanie Stuart, Sally Barros, Ryan Evans and Tim Ricard

Public present: Gary Mortara, Jim Lee, Joel Ware and Dan Gregg

The meeting was called to order at 4:05 p.m.

**1. Amendment to OPA with Amin Concord LLC for the Hilton Garden Inn at 524  
Lewelling Blvd.**

Business Development Manager Luke Sims gave an overview of the proposed amendment to the Owner Participation Agreement between the Redevelopment Agency and Amin Concord, LLC, the developer of the Hilton Garden Inn, highlighting the business terms. The amendment has been under discussion over the past year to allow more flexibility in the OPA so that the developer can better compete for long-term contracts with airlines to accommodate flight crews operating out of Oakland International Airport.

In an effort to maintain the quality of the hotel, two key requirements were placed on the developer in the original agreement: (1) that the property maintain an Auto Club three diamond rating; and (2) that the operator of the hotel be prohibited from offering long-term contract accommodations. This was in response to the situation at The Islander Motel where a portion of the motel converted into what was essentially an apartment building. Sims explained that the experience with the Hilton Garden Inn is not comparable and the because of the restrictions on long-term contracts the hotel was unable to compete with the other hotels in the airport market for airline contracts. The proposed amendment will allow long-term contracts as long as the property maintains the three-diamond rating. A summary of the background and proposed amendment is attached, (Attachment No. 1).

Mayor Young asked whether there is a downside to the amendment. Sims replied that the airline contracts actually require services beyond the standards of the Automobile Club, such as having three hot meals per day and the result during a recent pilot period had been very successful. In response to a question from Councilmember Stephens, he noted that the long-term contracts are exempt from paying the transient occupancy tax but that arguably the



revenue would not be forthcoming anyway as the airline business would be shifted to one of the other area hotels such as the Marina Inn or an Oakland hotel that did not have the prohibition on long-term contracts. He noted it was a matter of fairness and maintaining a level playing field for all area hotels.

The City Manager stated that the amendment would be finalized and signed by the developer prior to it being brought forward for Agency action in late November.

## **2. Update on Proposed Large Homes Zoning Code Amendment**

Planning Manager Debbie Pollart introduced the item and gave an outline of how other jurisdictions are dealing with the issue. She noted that communities with successful large home ordinances emphasize three key areas: limiting the maximum Floor Area Ratio ("FAR"), including a scaling of FAR for the size of the lot; requiring step-backs for second floors; and increasing the parking requirements for large homes. A staff memorandum and a summary of the findings are attached, (Attachment Nos. 2A and 2B)

Mayor Young initiated a discussion regarding the size of other homes in San Leandro and nearby unincorporated County areas. Councilmember Stephens inquired why the City was concerned about large homes and what staff would like from the Committee. Pollart answered that staff would like direction on the review process for large homes.

The Committee expressed interest in the outcome of the joint Planning Commission and Board of Zoning Adjustments work session on October 19, 2006.

## **3. Zoning Code Amendment Relating to Assembly Uses in Industrial Limited (IL) District**

Planning Manager Debbie Pollart explained that staff had received an application from Faith Fellowship Church requesting a Zoning Code amendment to conditionally allow assembly uses in IL districts. Pollart then outlined the staff analysis of General Plan policies regarding the application and provided the Committee with two options for consideration by the Committee: (1) amending the Zoning Code to allow assembly uses in the IL District through a Conditional Use Permit process; and (2) create an "Assembly" Overlay District in areas which meet certain criteria involving the preservation of commercial corridors, protecting industrial parks and avoiding land use conflicts with heavy industry, parcel size and being in close proximity to major arterials. A summary of the issues and some of the options is included in the attached summary (Attachment Nos. 3A and 3B)

The Committee discussed at length the importance of industrial land to the viability of the City and how industry creates substantial tax revenue for San Leandro. Mayor Young and Councilmember Badger expressed concerns over losing industrial land and how it may affect the future revenues for the City. Mayor Young stated she looked forward to hearing what the Board of Zoning Adjustments and Planning Commission recommend.

Mayor Young asked that staff prepare a map showing the areas within San Leandro where religious assembly and adult entertainment are allowed, in order to better understand how these areas relate to one another. She noted her concern that these uses not be in close proximity to each other. Staff agreed to prepare a map and return to the Committee with the information.

**EXHIBIT 13**



**City of San Leandro  
Community Development Department  
Planning Services Division  
Staff Report**

**DATE:** October 19, 2006

**TO:** Board of Zoning Adjustments and Planning Commission

**FROM:** Debbie Pollart, Planning Manager

**SUBJECT:** Work session to discuss potential Zoning Code amendments related to: standards for development of large homes (including parking standards); the residential condominium conversion process; and the potential for assembly uses to occur in the Industrial Limited (IL) Zoning District.

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**SUMMARY AND RECOMMENDATION**

Over the course of the past few months, staff has received direction from the City Council to analyze potential Zoning Code amendments related to development standards for large homes, the residential condominium conversion process, and the potential for assembly uses to occur in certain industrial areas. Each of these topics is discussed separately in this report and should not necessarily be treated as being inter-related. As a way to facilitate discussion and direction from the Board of Zoning Adjustments and the Planning Commission in a common setting, all three topics were chosen to be brought forward at this joint work session. If direction is given to bring forward potential Zoning Code amendments on any of these topics, staff will prepare additional analysis and environmental review before bringing the matter back to the Board of Zoning Adjustments and Planning Commission for recommendation, with final review and action by the City Council.

**DESCRIPTION AND STAFF ANALYSIS**

**Standards for Development of Large Homes**

The current application for a large home on Darius Court and other recent applications has raised concerns by the public over the standards and review process for large homes and additions. There is no specific definition in Article 3 of the Zoning Code for 'large' homes; however, Section 2-584 includes regulations for "new homes or additions to existing homes that would result in a residence of 4,000 square feet or larger."

At the direction of City Council, in 2001 staff presented Zoning Code amendments that established a Site Plan Review process for residential and non-residential development. The 2001 amendments defined regulations for Minor and Major Site Plan Review, which are used to review new single-family homes and additions to existing homes. The table included in Section

2-584 (attached) indicates the review process and decision-making body for each type of single-family construction, which ranges from administrative planning review to a public hearing before the Board of Zoning Adjustments.

Staff performed an informal review (via review of online Municipal Codes) of various jurisdictions, including some that more commonly regulate large homes and/or hillside development. The guideline for comparison was for zoning standards similar to the City's RS Residential Single Family District. Staff notes that this is not an exact 'apple-to-apple' comparison because, for example, some jurisdictions had a different minimum lot size for single-family residential uses.

Applicable General Plan policies related to residential development include the following:

- Policy 2.05 – Alternations, Additions, and Infill;*
- Policy 2.08 – Privacy and Views;*
- Policy 2.09 – Off-Street Parking;*
- Policy 2.14 – Constrained Sites;*
- Policy 3.01 – Mix of Unit Types;*
- Policy 3.02 – Mix of Price Ranges;*
- Policy 3.04 – Promotion of Infill;*
- Policy 3.09 – Executive Housing*

In drawing some conclusions from the comparison of data, staff has identified the following issues and recommendations for consideration by the Board of Zoning Adjustments and Planning Commission.

#### **Issue: Compatibility with the Neighborhood**

- ▶ *Establish a maximum Floor Area Ratio (FAR) to limit size and scale of homes* – This can either be done for the site as a whole, or separately for each story of construction (e.g. as Santa Monica does). In the Solano Beach data, FAR is scaled in relation to the size of the lot, with the allowed FAR decreasing as the size of the lot increases. Slope can also be taken into account to further limit total square footage on hillside lots (e.g. Solano Beach, Los Altos Hills and Pasadena).

Examples of data from recent San Leandro projects will be presented at the work session.

#### **Issue: Potential Privacy/Shade Impacts on Adjacent Structures**

- ▶ *Codify step-back requirements for second story construction* – Currently setbacks are analyzed with guidelines established by the Zoning Enforcement Official (ZEO). The guidelines are not codified as required standards, but are assessed by the ZEO on a case-by-case basis. Standards could be established, with the caveat that applications not meeting the standards would require a higher level of review. If FAR standards are established for the

second story of construction, then codification of the guidelines may not be necessary, as the second floor FAR standard would serve the same purpose.

#### **Issue: Parking**

- ▶ *Consider increasing parking standards to alleviate on-street parking impacts* – Although the City's standard of two (2) covered off-street parking spaces/single-family home is in keeping with many of the cities analyzed; one option could include the provision of additional required parking for homes with 5+ bedrooms. This additional parking need not be covered and could include tandem parking.

#### **Residential Condominium Conversion Process**

This matter is predicated in part by the increase in the number of condominium applications, mostly in the Residential Outer (RO) District, that the City has received (some conversion applications have also been processed in the Residential Duplex (RD) District). Zoning Code Section 5-2424 stipulates that conversions involving four residential units or less are subject to a use permit, with the Board of Zoning Adjustments as the decision-making body.

Under current zoning regulations, properties in the RO and RD districts may build additional units on a single parcel if minimum standards regarding lot size, lot coverage, parking, and building setbacks can be met. New units require Site Plan Review approval (under Article 25 of the Zoning Code), which involves immediate neighbor notification and administrative action by the Zoning Enforcement Official (ZEO) after a minimum 10-day written notification period. However, Article 25 (Section 5-2506) stipulates that for projects requiring both Site Plan Review and a use permit, the Board of Zoning Adjustments shall be the decision-making body.

Under the regulations of the Subdivision Map Act, residential condominium conversions require processing of a Parcel Map, with the City Council as the only reviewing and decision-making body (e.g., Parcel Maps do not require review or recommendation by either the Board of Zoning Adjustments nor the Planning Commission prior to going to the City Council). For applicants in the RO or RD that wish to do a condominium conversion of their property (whether in combination with Site Plan Review or without, if the units have already been built), they must go to the Board of Zoning Adjustments for use permit approval, then to the City Council for approval of the Parcel Map. Staff believes this creates an onerous process that does not add to the ability for the City to review and apply residential development standards, as the Parcel Map is simply a vehicle for subdivision of property and has no design review function.

The Parcel Map process involves submittal of an application with the Engineering and Transportation Department, with review by various City departments, including the Community Development Department, which once satisfied with the application, prepares a Planners Report that accompanies the application to the City Council. The purpose of the Planners Report is to verify that the proposal is in conformance with: the use permit (and any accompanying conditions of approval); the City's Subdivision Ordinance; the Subdivision Map Act; and policies of the General Plan. If approved by the City Council, the single-lot subdivision allows

the sale of the properties individually, with future maintenance of all properties governed by Covenants, Conditions and Restrictions (CC&Rs) placed on the property.

Associated with the increase in development applications in the RO District has been the concern over off-street parking associated with the proposed additional units. Article 17 of the Zoning Code has more relaxed parking standards for the RO District than for other residential districts. Staff believes that the off-street parking concerns would be adequately addressed if RO standards were the same as for other residential districts.

Staff is recommending the following options for consideration by the Board of Zoning Adjustments and Planning Commission:

- ▶ Delete Section 5-2514 of the Zoning Code, which currently requires use permit approval for conversions of four lots or less. The application process for the Parcel Map itself would remain unchanged, with internal staff review under the regulations of the Subdivision Map Act and the City's Subdivision Ordinance, with approval by the City Council. The process for Site Plan Review would remain unchanged.
- ▶ Modify Section 4-1704 (table) as follows (deletions shown in ~~strikeout~~ and additions in *italics*).

Residential Single-Family  
(RS, RD, *RO*, and RM)

2, non-tandem covered, per unit

~~Single-Family Residential (RO)~~

~~2, may be uncovered and in tandem~~

Residential Two-Family  
(RD, *RO*, and RM)

2, including 1 covered, per unit

~~Two-Family Dwelling (RO)~~

~~3 for each two-family dwelling (two may be tandem and all may be uncovered)~~

#### Assembly Uses in Industrial Limited (IL) Zoning District

On May 18, 2006, staff received an application from Faith Fellowship Church (FFC) requesting a Zoning Code amendment to conditionally permit Assembly uses in Industrial Limited (IL) zones. FFC is interested in purchasing the property at 14600 Catalina (formerly occupied by MDL). This property is zoned Industrial Professional (IP). Although not currently codified in Article 3 – Definitions of the Zoning Code, assembly uses include the following two uses that are defined: Clubs and Lodges; Religious Assembly.

Currently, the Zoning Code conditionally permits Religious Assembly uses in R districts, and Faith Fellowship's current location at 577 Manor is zoned RS (PD), Residential Single Family, Planned Development Overlay District.

*J-4*

In light of the application by FFC to locate in a non-residential district, staff analyzed the possibility of allowing assembly uses on appropriate non-residential sites, and expanding the land use options for such uses.

Staff notes that analyzing this matter raises larger General Plan policy issues. Staff looked at the following overriding General Plan Policies for guidance:

- ▶ “The areas most suitable for conversion to non-industrial uses are those located adjacent to existing housing, or in areas which lack the amenities to meet the needs of modern industry. Such areas exist along San Leandro Boulevard, Alvarado Street, and Marina Boulevard” (Page 3-52 of the General Plan).
- ▶ General Plan Policy 7.06 *Adaptive Reuse*; Policy 7.07 *Tax Base Enhancement*; Policy 10.04 *Industrial Sanctuary*; and Policy 33.04 *Separation from Sensitive Uses*;

Based on the above policies, the following criteria are suggested for evaluating appropriate locations for large assembly uses:

- ▶ Properties not located along major commercial corridors (E. 14<sup>th</sup> Street and Auto Mall area of Marina Boulevard) – *to preserve the commercial character of these corridors*;
- ▶ Properties not designated IG or IP – *to comply with General Policies*;
- ▶ However, if property is in an Industrial District, it be located near the periphery – *to comply with General Plan policies for preservation and enhancement of the City’s industrial base*;
- ▶ Minimum 2-acre area – *to accommodate large assembly uses*;
- ▶ Abuts or is within ¼ mile of an arterial street – *to ensure adequacy of the street system to accommodate the traffic from such uses*;
- ▶ Vacant/underutilized property – *that may be available in the future for assembly uses*.

After inputting these criteria, 13 potential areas were derived, with the applicable assumptions indicated for each of the areas (attached map).

Based upon the analysis performed, staff is recommending two options for consideration by the Board of Zoning Adjustments and Planning Commission.

*Option 1 – Amend Zoning Code to allow Assembly uses in IL Zoning District.* Under Option 1, Assembly uses could be added as a ‘conditionally permitted’ use in all IL zones, with use permit review and approval under the Board of Zoning Adjustments. Alternatively, base development standards (such as have been developed for residential uses) could be developed for Assembly uses, such that applications meeting such standards could be reviewed and approved

administratively by the Zoning Enforcement Official (ZEO) through a Site Plan Review application. For applications that don't meet the standards, these could be reviewed by the ZEO at a public hearing, or be referred to the Board of Zoning Adjustments. With this option, a total of approximately 94 acres currently zoned IL would be affected (this includes some areas of railroad right-of-way).

*Option 2 – Apply 'Assembly' Overlay District to Identified Areas.* Under Option 2, the green areas identified on the draft map would have an Assembly Overlay District applied to them. This would be accomplished via a Zoning Code amendment to define the Assembly Overlay District (new Article), and then rezoning all of the designated areas with the new Assembly Overlay District. Under this option, the underlying zoning designations for each of the individual properties would not change, similar to how the S and PD Overlay Districts are utilized. With this option, a total of approximately 218 acres would be affected (this includes some areas of railroad right-of-way).

Staff notes that under either option, Religious Assembly uses would continue to remain conditionally permitted in R Districts.

Finally, when staff brings the matter back through the public hearing process, a definition for Assembly uses will be recommended as part of the proposed Zoning Code amendments. A codified definition would preclude future confusion that may occur for assessing Clubs and Lodges and Religious Assembly uses.

## ENVIRONMENTAL REVIEW

Once specific Zoning Code amendments are proposed, staff will prepare the necessary environmental analysis prior to bringing the matters back for public hearings.

## PUBLIC NOTIFICATION

Notification for this work session included a legal advertisement published in the Daily Review and a Courtesy Notice was sent to all of the neighborhood associations listed on the City's official association roster. At the time of writing this report, no comments had been received regarding these items.

## RECOMMENDATION

As this is a work session item, no formal action is requested. Comments and direction made by the Board of Zoning Adjustments and Planning Commission will be utilized in formulating proposed changes. Any proposed changes to the Zoning Code will be brought to the Board of Zoning Adjustments and the Planning Commission for a recommendation, with final action taken by the City Council.



## ATTACHMENTS

Exhibit A – Zoning Code Section 2-584 Table

Exhibit B - Development Standards Comparison for Single-Family Residential (Table)

Exhibit C – Draft Potential Assembly Use Areas (Large scale, color version will be available at the work session)

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**EXHIBIT A**

Adopted 7/16/2001 – Effective 8/15/2001  
(with amendments as of January 2006)

City of San Leandro Zoning Code, Article 5

## 2-584 RO and RS Districts – Overview of Residential Site Plan Review Requirements

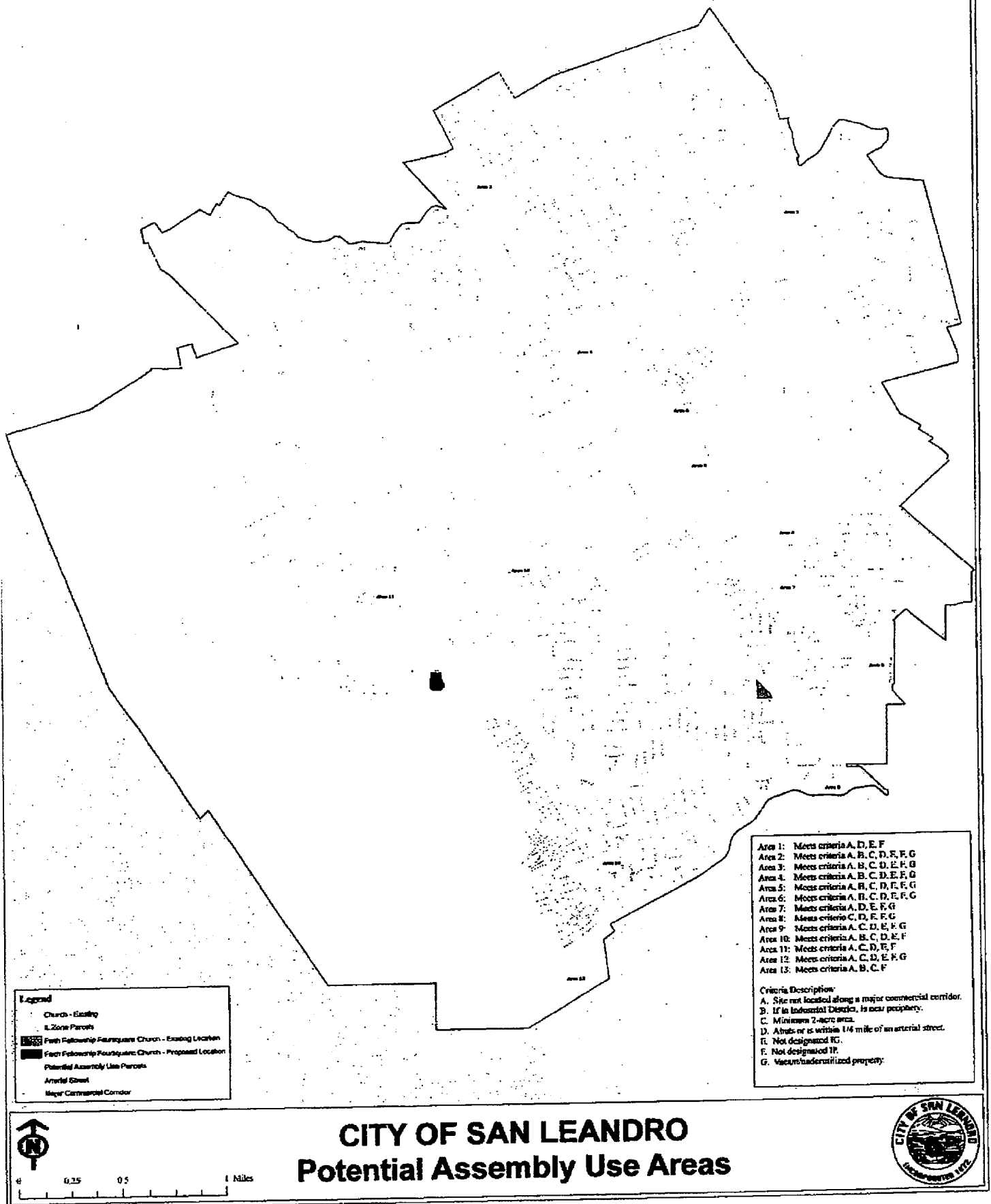
TYPE OF SINGLE-FAMILY CONSTRUCTION	DISTRICT & TYPE OF REVIEW REQUIRED	
	RO, RS, & RS-40 [REFER TO SECTION 2-580]	RS-VP [REFER TO SECTION 2-582]
<b>I. SINGLE STORY CONSTRUCTION</b>		
<b>"MINOR ADDITIONS"</b> <input type="checkbox"/> Additions less than 250 square feet, including additions of accessory buildings or garages.	None required	<b>MINOR</b> <u>View Preservation/</u> <u>Site Plan Review</u> <ul style="list-style-type: none"> <li>notice to adjacent properties</li> <li>no hearing required, action by ZEO</li> </ul>
<b>"ADDITIONS and NEW HOMES"</b> <input type="checkbox"/> Additions of 250 square feet or larger, and new homes, but not "major additions and new large homes" as outlined below.	None required	<b>MAJOR</b> <u>View Preservation/</u> <u>Site Plan Review</u> <ul style="list-style-type: none"> <li>notice to properties within 500' radius</li> <li>action by ZEO or SDSC at public hearing</li> </ul>
<b>"MAJOR ADDITIONS and NEW LARGE HOMES"</b> <input type="checkbox"/> New homes or additions to existing homes that would result in a residence of 4,000 square feet, or larger; or, <input type="checkbox"/> An addition that exceeds 100% of the existing residence's floor area	<b>MAJOR</b> <u>Residential Site Plan</u> <u>Review</u> <ul style="list-style-type: none"> <li>notice to adjacent properties</li> <li>action by ZEO or SDSC at public hearing</li> </ul>	
<b>II. TWO STORY CONSTRUCTION</b>		
<b>"MINOR ADDITIONS," "ADDITIONS and NEW HOMES"</b> <input type="checkbox"/> All additions and new homes, other than "major additions and new large homes" as outlined below.	<b>MINOR</b> <u>Residential Site Plan</u> <u>Review</u> <ul style="list-style-type: none"> <li>notice to adjacent properties</li> <li>no hearing required, action by ZEO</li> </ul>	<b>MAJOR</b> <u>View Preservation/</u> <u>Site Plan Review</u>  <b>&amp;</b>  <b>Exception</b> (TO EXCEED SINGLE STORY/ 18-FOOT HEIGHT LIMIT)
<b>"MAJOR ADDITIONS and NEW LARGE HOMES"</b> <input type="checkbox"/> New homes or additions to existing homes that would result in a residence of 4,000 square feet, or larger; or, <input type="checkbox"/> An addition that exceeds 100% of the existing residence's floor area	<b>MAJOR</b> <u>Residential Site Plan</u> <u>Review</u> <ul style="list-style-type: none"> <li>notice to adjacent properties</li> <li>action by ZEO or SDSC at public hearing</li> </ul>	<ul style="list-style-type: none"> <li>notice to properties within 500' radius</li> <li>action by BZA at public hearing</li> </ul>
<b>III. THREE STORY CONSTRUCTION</b>		
(ALL ADDITIONS and NEW HOMES)	<b>MAJOR</b> <u>Residential Site Plan</u> <u>Review</u>  SAME AS ABOVE	<b>MAJOR</b> <u>View Preservation/</u> <u>Site Plan Review</u> <u>&amp; Exception</u>  SAME AS ABOVE

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Development Standards Comparison for Single-Family Residential

City	Maximum Lot Coverage	Maximum Floor Area	Maximum Height or # Stories	Minimum Required Parking	Step-back Requirement	Discretionary Review
San Leandro	50%; 33.3% in RO	ND <sup>2</sup>	30' RS 18' RS-VP	2 covered	Guidelines suggest 2 <sup>nd</sup> floor cover 30-50%, but not > 75% of first floor (includes attached garage)	Minor SPR approved administratively by ZEO after neighbor notification. Major SPR approved by ZEO at public hearing; 2-story in RS-VP approved by BZA at public hearing.
Albany	50%	55%	28' up to 35' at front setback w/45° daylight plane	2; 2 add'l required for secondary unit (can be tandem)	ND	Approvals by Community Development Director at a public hearing, or by the Planning and Zoning Commission at a public hearing.
Oakland	40% or 2,000 sf, whichever is greater	ND	25-30'	2	ND	Approvals administratively by City Planning Director; may be referred to Planning Commission.
Hayward	40%	ND	30'	2	ND	Approved administratively by Planning Director; may be referred to Planning Commission.
Los Altos Hills	See Note 3	See Note 4	27-32'	4; plus 1 add'l for secondary unit	ND	Approved administratively by Planning Director if <3,000 sf; Approved by Planning Director at public hearing if >3,000 sf; primary residence approved at public hearing by Planning Commission.
Palo Alto	Maximum house size of 6,000 sf (includes attached garage and attached secondary units)	45% for first 5,000 sf of lot size, then 30% for >5,000 sf of lot	17' and one story for substandard lot size or < 50' wide; 30' for standard lot; 33' if > 12:12 pitch	2 (1 covered); plus 2 add'l space for secondary unit	ND	Minor application approved administratively by Planning Director; Major application has recommendation at public hearing by Architectural Review Board, with final decision by Planning Director.
Arcadia	45%	35% for 2-story homes	25' for lots up to 71' wide; up to 35' for lots 100' or wider	2 covered	ND	Approved administratively by Planning Director.
Solano Beach	For slopes >20%, allowed density is 1/2	50% for lots up to 6,000 sf; 17.5% for lots >6-15,000 sf; 10% for lots 15-20,000 sf; 5% for lots > 20,000 sf	25'; daylight plane can allow up to 30' with Council approval	2	ND	Approved at public hearing by View Assessment Committee; may be referred to City Council.
Beverly Hills	ND	1,500 sf + 40% of lot	28'; 32' if both side yards > 10'	2/4-bedroom: 3/5-bedroom: 4/6+ bedroom:	ND	Permitted without design review if development standards are met.
Pasadena	No limit if lot < 7,200 sf; 35% if > 7,200 sf	35% of lot area + 500 sf; 25% for hillside lots	23' at plate; 32' at ridge	2 covered	ND	Approved administratively by Planning Director; may be referred to Design Commission.
San Jose	50%; 60% if lot < 3,100 sf; 40% if > 5,000 sf	35% lot coverage for 1 <sup>st</sup> floor; 24% for 2 <sup>nd</sup> floor	28'	2 in garage; tandem allowed for lots < 30' wide	See Note 5	Approved administratively by Zoning Administrator; may be referred to Planning Commission.
Temple City	50%; plus 20% of lot area required to be permeable	35% plus 400 sf for 2-car attached; 600 sf for 3-car attached	26'; max. of 1 story/20' for flag lot	2; 3/4-bedroom (includes den/library); 2/guesthouse	2 <sup>nd</sup> floor shall not exceed 75% of total floor area of first floor. Including attached garage: At least 50% of 2 <sup>nd</sup> floor front elevation setback no less than 10' from first story	Approved administratively by Planning Director.
Sunnyvale	45%	45% or 4,050 sf, whichever is less	2 stories; 30'	2 covered; plus 2 in driveway	2 <sup>nd</sup> story shall be setback 25'	May be approved at administrative hearing by Hearing Officer; may be referred to Planning Commission.



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